



## ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Signature

Kentley H. McQueen, Jr.

Date

August 5, 2019

Print or type your full name (last, first, middle)

Kentley H. McQueen, Jr.

## Leddon, Terry

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**From:** Fugh, Justina  
**Sent:** Wednesday, August 14, 2019 11:41 AM  
**To:** Griffo, Shannon  
**Cc:** Payne, James; Leddon, Terry  
**Subject:** status update on Ken McQueen recusals

Hi there,

I have sent a detailed note to Ken McQueen about the information we still need in order to finalize a recusal statement for him. See below.

Justina

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**From:** Fugh, Justina  
**Sent:** Wednesday, August 14, 2019 12:38 PM  
**To:** McQueen, Ken <McQueen.Ken@epa.gov>  
**Subject:** Yoo hoo! your pesky ethics lawyer wants to say hello!


Hi there,

Belated welcome to EPA! I was on vacation when you arrived, but I know that you met with two members of Team Ethics for your new employee training. As you learned, you need to ensure that you are properly recused from working on particular matters that present conflicts or pledge issues for you. A recusal statement makes clear to your staff and others what they can do to assist you. But we can't draft that statement until we hear *from you* about the specifics.

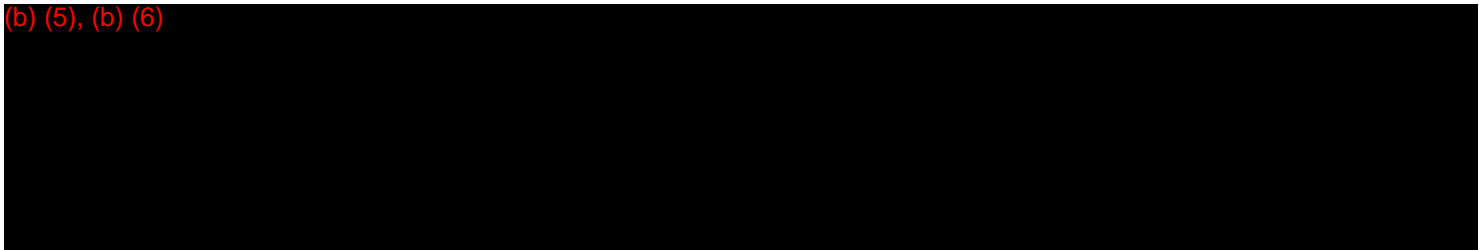
Here is what we need from you:

FOR YOUR RECUSAL STATEMENT

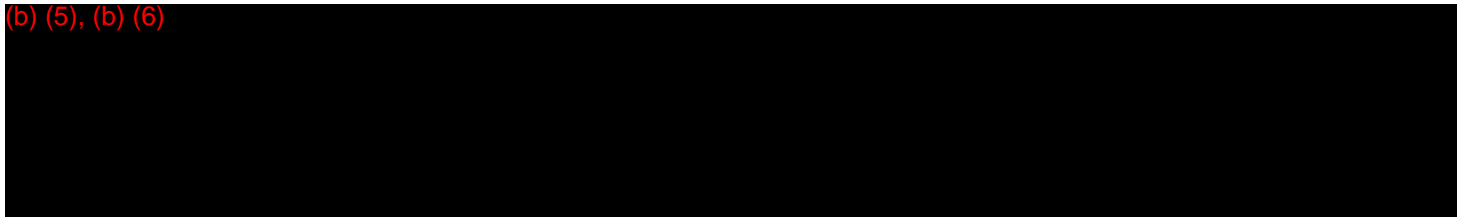
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**Happy to have you on board!**  
**Justina**

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

## Leddon, Terry

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**From:** Griffo, Shannon  
**Sent:** Thursday, August 08, 2019 1:51 PM  
**To:** McQueen, Ken  
**Cc:** Gray, David; Payne, James; Fugh, Justina; Leddon, Terry  
**Subject:** Your Signed Impartiality Determination (and draft recusal statement)  
**Attachments:** Ken McQueen Signed Impartiality Determination 8\_5\_19.pdf; Ken McQueen draft recusal statement 8\_8\_19.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Ken,

It was a pleasure speaking with you yesterday. As promised, attached is the signed impartiality determination that permits you to work on specific party matters involving the State of New Mexico, provided that you did not work on those matters personally and substantially while employed with the State.

I've also attached a draft recusal statement for your consideration. We still have some gaps to fill in, but I thought it would be helpful for folks to see a draft. Feel free to provide me with the missing information or work with the Region to address our comments. I know you are just getting started on your financial disclosure report, so I'll keep an eye out for that as well to ensure we've covered everything in the recusal.

In the meantime, please don't hesitate to reach out if you have any other questions.

Thanks!  
Shannon

Shannon Griffo  
Ethics Attorney  
Office of General Counsel, Ethics  
U.S. Environmental Protection Agency  
(202) 564-7061  
Griffo.Shannon@epa.gov





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
Washington, D.C. 20460

OFFICE OF  
GENERAL COUNSEL

AUG - 5 2019

**MEMORANDUM**

**SUBJECT:** Impartiality Determination to Participate in Certain Matters Involving the State of New Mexico

**FROM:** Justina Fugh *justina fugh*  
Alternate Designated Agency Ethics Official

**TO:** Ken McQueen  
Regional Administrator  
Region 6

As the Regional Administrator for Region 6 of the United States Environmental Protection Agency (EPA), you seek permission to participate in specific party matters involving the State of New Mexico. Within the last year, prior to being selected for this position, you served as Cabinet Secretary of the New Mexico Energy, Minerals and Natural Resources Department (EMNRD).

Under President Trump's Ethics Pledge, political appointees are prohibited from participating in specific party matters in which their former employer or former client is a party. However, state government is excluded under the definition of "former employer."<sup>1</sup> Therefore the Ethics Pledge does not apply to your State of New Mexico employment. But since federal ethics rules do not contain a similar exclusion for state government, those rules do apply to your employment with the State of New Mexico.

What remains is an impartiality concern under the federal ethics rules set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Senior Advisor for Water, you have a "covered relationship" with the State of New Mexico pursuant to 5 C.F.R. § 2635.502(b)(1)(iv). For one year from the date you resigned from EMNRD, absent an impartiality determination from me, you cannot participate in any specific party matter in which the State of New Mexico is

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<sup>1</sup> See Office of Government Ethics advisories entitled "Guidance on Executive Order 13770," LA-17-03 (3/20/17) and "Executive Order 13770," LA-17-02 (2/6/17), which apply the following OGE advisories from the last administration in full: "Who Must Sign the Ethics Pledge?" DO-09-010 (3/16/10); and "Signing the Ethics Pledge," DO-090-005 (2/10/09).

a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality. See 5 C.F.R. § 2635.502(a).

Federal ethics regulations permit federal employees to participate in matters that might raise impartiality concerns when the interest of the federal government in the employee's participation outweighs concern over the questioning of the "integrity of the agency's programs and operations." 5 C.F.R. § 2635.502(d). The factors that the Agency takes into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

As Regional Administrator, you are the leader of Region 6 and part of the Agency's political team. Your area of responsibility includes New Mexico, as well as Arkansas, Louisiana, Oklahoma, and Texas. In your role as Regional Administrator, you are expected to communicate freely with the states in your region, including New Mexico, and you will be asked to participate in discussions and meetings related to particular matters that affect the State. Because I conclude that the interest of the United States Government in your participation outweighs any concerns about your impartiality, I am authorizing you to participate as Regional Administrator in particular matters that involve the State of New Mexico with the following limitation: you must recuse yourself from participation in specific party matters in which you participated personally and substantially while employed with EMNRD. In making this determination, I have taken the following factors into consideration:

Nature of the relationship involved – From 2016 through 2018, you served as Cabinet Secretary for the New Mexico Energy, Minerals and Natural Resources Department. In this significant leadership role, you led the Department responsible for protecting and conserving New Mexico's natural and energy resources, and provided policy direction for EMNRD and its six divisions (Oil Conservation, Energy Conservation and Management, Mining and Minerals, State Forestry, State Parks, and Administrative Services). Sensitivities regarding your impartiality will necessarily revolve around the issues in which you participated personally and substantially for EMNRD. States share responsibility with EPA in protecting human health and the environment. With respect to many of our statutes, EPA has directly delegated states with regulatory and



enforcement authority. In fact, EPA, through its regions, works closely and directly with state governmental entities on a continuing and frequent basis.

Effect of the matter upon your financial interest – I understand that you are not vested in the defined benefit plan with the State of New Mexico. As such, you do not have a financial conflict of interest pursuant to 18 U.S.C. § 208.

Nature and importance of the employee's role – New Mexico will constitute a significant portion of your portfolio since your area of responsibility covers Arkansas, Louisiana, Oklahoma, Texas, and New Mexico. In your role as Regional Administrator, you are expected to communicate freely with states in Region 6, including New Mexico.

Sensitivity of the matter – We anticipate that there will be specific party matters in which you did not participate personally and substantially for EMNRD that will rise to your level of attention, merit your participation and raise nationally significant issues.

Difficulty of reassigning the matter to another employee – Your participation as Regional Administrator in such matters will be of importance to the Administrator, and therefore in the Agency's interests. In these situations, it may not be appropriate to reassign the matter to another employee.

Under this limited authorization, you are authorized to participate in new or future specific party matters that involve the State of New Mexico, but not on the very same specific party matters on which you worked on personally and substantially while employed by EMNRD. With respect to those particular matters involving New Mexico as a specific party and in which you previously participated personally and substantially, you have agreed not to participate at all for the duration of your EPA tenure. If the Agency determines that we have a compelling reason for your participation as an EPA official on any of those same specific party matters that you participated in personally and substantially, then you, your Deputy Regional Administrator, or Regional Counsel may ask OGC/Ethics to reconsider the factors on a case-by-case basis. Unless and until you receive written authorization, you must continue to recuse yourself from those matters in which you previously participated.

While I have issued you this determination to interact with the State of New Mexico with the limitation described above, please note that you may wish to make adjustments to your duties to not participate in a particular matter that involves New Mexico. Nothing in this impartiality determination precludes you from making additional adjustments to your duties, such as

voluntarily recusing from other matters, although you are advised to confer with your Regional Counsel should such a circumstance arise.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact Shannon Griffo at [griffo.shannon@epa.gov](mailto:griffo.shannon@epa.gov) or (202) 564-7061.

cc: David Gray, Deputy Regional Administrator, Region 6  
James Payne, Regional Counsel, Region 6  
Erin E. Chancellor, Chief of Staff, Region 6  
Terry Leddon, Regional Ethics Counsel, Region 6



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